IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4286 OF 2006

Kishor Bhalchandra Ghag ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

Shri S.S. Duse for the Applicant.

Shri U.V.Nikam, A.P.P for the State.

CORAM : A. S. OKA, J.

DATE : DECEMBER 22, 2006.

P.C.:

1. In terms of Administrative Order passed by the Hon'ble the Chief Justice, this Application for anticipatory bail is placed before this court.

2. According to the case of the Applicant he is an agriculturist and he was elected as Sarpanch of village Naishi, Taluka Chiplun, District Ratnagiri for the period between the years 2000 to 2005. The offence has been registered under section 420 read with section 34 of the Indian Penal Code. The first informant is an officer of Chiplun Panchayat Samiti. The allegation of the prosecution is as regards misappropriation of the grant released by the Zilla Parishad in favour of

Naishi Gram Panchayat under the Yashwant Gram Samruddhi Yojna. The allegation in the F.I.R is that the work under the Yashwant Gram Samruddhi Yojna of asphalting roads was commenced without prior intimation to the competent authority. The work was found to be of inferior quality by the Executive Engineer of P.W.D. Chiplun. The allegation against the Applicant and other co-accused is as regards disbursing sum of Rs.2,60,000/- to the contractor without verification of the quality.

3. The order dated 15th December, 2006 records the statement of the learned A.P.P that the Applicant has co-operated with the Investigating Officer. By the said order the Applicant was directed to attend the concerned Police Station till 21st December, 2006 everyday between 11.00 a.m to 02.00 p.m. The learned A.P.P on instructions of the concerned officer has stated that accordingly the Applicant has attended and has co-operated for investigation.

4. So far as the prosecution case is concerned, the same is entirely based on documentary evidence. The Applicant is no longer the Sarpanch of the village

and the record of the Gram Panchayat is available to the Investigating Agency. Admittedly, the Applicant has co-operated with the Investigating Officer and has regularly attended the Police Station. The learned A.P.P states that his attendance will be required on seven more days.

5. In my view, considering the allegations in the F.I.R and considering the aforesaid factual aspects, this is not the case where custodial interrogation of the Applicant is required. Hence, pre-arrest bail cannot be denied to him. Accordingly, case is made out for anticipatory bail.

6. Hence, I pass the following order:

i) In the event of the arrest of the Applicant in connection with C.R.No.52 of 2006 of Sawarde Police Station, District Ratnagiri, the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.10,000/- with one or two sureties in the like amount.

ii) The Bail is granted subject to condition that

for period of seven days from tomorrow i.e. 23rd December, 2006 till 29th December, 2006 the Applicant will attend the concerned police station from 11.00 a.m to 02.00 p.m and will co-operate for investigation and thereafter he will attend the Police Station as and when called upon to do so till the filing of the chargesheet.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/Investiating Agency. The Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the Applicant only till chargesheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE